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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/779,334	02/08/2001	Carsten Sjoeholm	6092.200-US	9041
25908	7590	11/25/2003	EXAMINER	
NOVOZYMES NORTH AMERICA, INC. 500 FIFTH AVENUE SUITE 1600 NEW YORK, NY 10110			WEBER, JON P	
			ART UNIT	PAPER NUMBER
			1651	

DATE MAILED: 11/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/779,334	Applicant(s) SJOEHOLM ET AL.	
	Examiner Jon P Weber, Ph.D.	Art Unit 1651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-27 is/are pending in the application.
 4a) Of the above claim(s) 17-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(c), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission of amendments and response filed on 10 October 2003 has been entered. Claims 14-27 have now been presented for examination.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Election/Restrictions

Claims 17-27 remain withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Group, there being no allowable generic or linking claim.

The restriction election is still argued. Since the restriction has been made final and remarks responded to previously, the proper response is to petition the restriction. The fact pattern in Nielsen et al. (US 5,989,600) is different and hence not probative of the instant claims. There is no unity of invention as previously indicated because the alleged common special technical feature, the proteases, is not a contribution over the art. Claims 14-16 remain to be considered on the merits.

Claim Rejections - 35 USC § 102

Claims 14-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Hiller (US 4,239,750), Hiller (US 4,225,584) or Hiller (US 4,218,437).

Hiller (US 4,239,750), Hiller (US 4,225,584) and Hiller (US 4,218,437) each discloses animal feeds containing acid protease, and a balance of trace minerals and vitamins. Acid protease from *Aspergillus niger* and *Rhizopus rhizopodiformis* were exemplified.

Claims 14-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Lehmann et al. (US 4,062,732).

Lehmann et al. (US 4,062,732) disclose an animal feed additive comprising their acid protease from a fungus strain of the species *Rhizopus rhizopodiformis* in combination with vitamins and minerals (Example 5).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hiller (US 4,239,750), Hiller (US 4,225,584), Hiller (US 4,218,437) or Lehmann et al. (US 4,062,732) in view of Outtrup et al. (US 5,597,720).

The teachings of Hiller (US 4,239,750), Hiller (US 4,225,584), Hiller (US 4,218,437) and Lehmann et al. (US 4,062,732) have been discussed above. Hiller (US 4,239,750), Hiller (US 4,225,584), Hiller (US 4,218,437) or Lehmann et al. (US 4,062,732) lack the specific acid protease from *Bacillus* NCIMB 40484.

The teachings of Outtrup et al. (US 5,597,720) have been discussed in the Office action of 2002.

A person of ordinary skill in the art at the time the invention was made would have been motivated to substitute the acid protease of Outtrup et al. (US 5,597,720) for the acid protease of Hiller (US 4,239,750), Hiller (US 4,225,584), Hiller (US 4,218,437) or Lehmann et al. (US 4,062,732) because Hiller (US 4,239,750), Hiller (US 4,225,584), Hiller (US 4,218,437) demonstrate no particular advantage of one acid protease over another. Accordingly, they are considered to be interchangeable.

Hence, it would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made to substitute one acid protease for another in an animal feed additive, in particular the acid protease of Outtrup et al. (US 5,597,720) for the acid protease of Hiller (US 4,239,750), Hiller (US 4,225,584), Hiller (US 4,218,437) or Lehmann et al. (US 4,062,732).

No claims are allowed.

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Art Unit: 1651

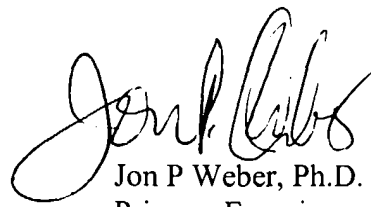
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jon P Weber, Ph.D. whose telephone number is 703-308-4015. The examiner can normally be reached on daily, off 1st Fri, 9/5/4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Wityshyn can be reached on 703-308-4743. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

My new Office room number will be Rem-03A45 and my new Office phone number will be 571-272-0925 after 15 January 2004.



Jon P Weber, Ph.D.
Primary Examiner
Art Unit 1651

JPW
24 November 2003